

CANAL TREATIES

EXECUTIVE DOCUMENTS PRESENTED
TO THE UNITED STATES SENATE
TOGETHER WITH PROCEEDINGS BY
THE SENATE THEREON RELATIVE TO
THE PANAMA CANAL



WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

18A

SUBMITTED BY MR. WILLIAMS.

IN THE SENATE OF THE UNITED STATES,

March 23, 1914.


Ordered, That Senate Document 85, Fifty-seventh Congress, first session (Inter-oceanic Canal), Clayton-Bulwer treaty of April 19, 1850; Senate Document 746, Sixty-first Congress, third session, History of amendments proposed to the Clayton-Bulwer treaty; Senate Executive Document K, Fifty-seventh Congress, second session, Panama Canal (Treaty with Colombia), Hay-Herrán; Senate Document 32, Fifty-eighth Congress, second session (treaty with Panama) Hay-Bunau-Varilla, be printed as one document, and that one thousand additional copies be printed for the use of the Senate document room.

Attest:

JAMES M. BAKER,
Secretary.

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[Senate Document No. 85, Fifty-seventh Congress, first session.]

CLAYTON-BULWER TREATY OF APRIL 19, 1850.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific oceans by the way of the river San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE I.

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The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise with any state, states, or governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such states or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both governments, or either government, if both governments, or either government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of

the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon the passengers, vessels, goods, wares, merchandise, or other articles: Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other states may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the states or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall moreover have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority

of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capitalsubscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done at Washington the nineteenth day of April, anno Domini one thousand eight hundred and fifty.

JOHN M. CLAYTON. [L. s.]

HENRY LYTTON BULWER. [L. s.]

19
[Senate, Executive K, Fifty-seventh Congress, second session.]

TREATY WITH COLOMBIA—HAY-HERRÁN.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF COLOMBIA FOR THE CONSTRUCTION OF A SHIP CANAL, ETC., TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS, SIGNED JANUARY 22, 1903.

JANUARY 23, 1903.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message, ordered to be printed in confidence for the use of the Senate.

JANUARY 24, 1903.—Injunction of secrecy removed.

MARCH 5, 1903.—Again referred to the Committee on Foreign Relations.

MARCH 9, 1903.—Reported without amendment.

MARCH 17, 1903.—Senate advises and consents to ratification.

To the Senate:

I transmit herewith, with a view to receiving the advice and consent of the Senate to its ratification, a convention between the United States of America and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific oceans, signed at Washington on January 22, 1903.

THEODORE ROOSEVELT.

WHITE HOUSE, *January 23, 1903.*

The PRESIDENT:

The undersigned, Secretary of State, has the honor to lay before the President for his consideration a convention between the United States of America and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific oceans, signed by the respective plenipotentiaries of the two Governments on January 22, 1903.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, January 23, 1903.

1 The United States of America and the Republic of Colombia,
2 being desirous to assure the construction of a ship canal to con-
3 nect the Atlantic and Pacific Oceans and the Congress of the
4 United States of America having passed an Act approved June
5 28, 1902, in furtherance of that object, a copy of which is here-
6 unto annexed, the high contracting parties have resolved, for that
7 purpose, to conclude a Convention and have accordingly appoint-
8 ed as their plenipotentiaries,

9 The President of the United States of America, John Hay,
10 Secretary of State, and

11 The President of the Republic of Colombia, Thomas Herran,
12 Chargé d'Affaires, thereunto specially empowered by said govern-
13 ment,

14 who, after communicating to each other their respective full
15 powers, found in good and due form, have agreed upon and con-
16 cluded the following Articles:

17 ARTICLE I.

18 The Government of Colombia authorizes the New Panama
19 Canal Company to sell and transfer to the United States its rights,
20 privileges, properties, and concessions, as well as the Panama
21 Railroad and all the shares or part of the shares of that company;
22 but the public lands situated outside of the zone hereinafter spec-
23 ified, now corresponding to the concessions to both said enter-
24 prises shall revert to the Republic of Colombia, except any prop-
25 erty now owned by or in the possession of the said companies
26 within Panama or Colon, or the ports and terminals thereof.

27 But it is understood that Colombia reserves all its rights to the
28 special shares in the capital of the New Panama Canal Company
29 to which reference is made in Article IV of the contract of
30 December 10, 1890, which shares shall be paid their full nominal
31 value at least; but as such right of Colombia exists solely in its
32 character of stockholder in said Company, no obligation under
33 this provision is imposed upon or assumed by the United States.

34 The Railroad Company (and the United States as owner of the
35 enterprise) shall be free from the obligations imposed by the
36 railroad concession, excepting as to the payment at maturity by
37 the Railroad Company of the outstanding bonds issued by said
38 Railroad Company.

ARTICLE II.

1
2 The United States shall have the exclusive right for the term of
3 one hundred years, renewable at the sole and absolute option of
4 the United States, for periods of similar duration so long as the
5 United States may desire, to excavate, construct, maintain, oper-
6 ate, control, and protect the Maritime Canal with or without locks
7 from the Atlantic to the Pacific Ocean, to and across the territory
8 of Colombia, such canal to be of sufficient depth and capacity for
9 vessels of the largest tonnage and greatest draft now engaged in
10 commerce, and such as may be reasonably anticipated, and also the
11 same rights for the construction, maintenance, operation, control,
12 and protection of the Panama Railroad and of railway, telegraph
13 and telephone lines, canals, dikes, dams, and reservoirs, and such
14 other auxiliary works as may be necessary and convenient for the
15 construction, maintenance, protection, and operation of the canal
16 and railroads.

ARTICLE III.

17
18 To enable the United States to exercise the rights and privileges
19 granted by this Treaty the Republic of Colombia grants to that
20 Government the use and control for the term of one hundred
21 years, renewable at the sole and absolute option of the United
22 States, for periods of similar duration so long as the United States
23 may desire, of a zone of territory along the route of the canal to
24 be constructed five kilometers in width on either side thereof
25 measured from its center line including therein the necessary aux-
26 iliary canals not exceeding in any case fifteen miles from the main
27 canal and other works, together with ten fathoms of water in the
28 Bay of Limon in extension of the canal, and at least three marine
29 miles from mean low water mark from each terminus of the canal
30 into the Caribbean Sea and the Pacific Ocean respectively. So
31 far as necessary for the construction, maintenance and operation
32 of the canal, the United States shall have the use and occupation
33 of the group of small islands in the Bay of Panama named Perico,
34 Naos, Culebra and Flamenco, but the same shall not be construed
35 as being within the zone herein defined nor governed by the
36 special provisions applicable to the same.

37 This grant shall in no manner invalidate the titles or rights of
38 private land owners in the said zone of territory, nor shall it

1 interfere with the rights of way over the public roads of the
2 Department; provided, however, that nothing herein contained
3 shall operate to diminish, impair or restrict the rights elsewhere
4 herein granted to the United States.

5 This grant shall not include the cities of Panama and Colon,
6 except so far as lands and other property therein are now owned
7 by or in possession of the said Canal Company or the said Rail-
8 road Company; but all the stipulations contained in Article 35 of
9 the Treaty of 1846-48 between the contracting parties shall con-
10 tinue and apply in full force to the cities of Panama and Colon
11 and to the accessory community lands and other property within
12 the said zone, and the territory thereon shall be neutral terri-
13 tory, and the United States shall continue to guarantee the
14 neutrality thereof and the sovereignty of Colombia thereover, in
15 conformity with the above-mentioned Article 35 of said Treaty.

16 In furtherance of this last provision there shall be created a
17 Joint Commission by the Governments of Colombia and the
18 United States that shall establish and enforce sanitary and police
19 regulations.

20 ARTICLE IV.

21 The rights and privileges granted to the United States by the
22 terms of this convention shall not affect the sovereignty of the
23 Republic of Colombia over the territory within whose boundaries
24 such rights and privileges are to be exercised.

25 The United States freely acknowledges and recognizes this
26 sovereignty and disavows any intention to impair it in any way
27 whatever or to increase its territory at the expense of Colombia
28 or of any of the sister republics in Central or South America, but
29 on the contrary, it desires to strengthen the power of the repub-
30 lics on this continent, and to promote, develop and maintain their
31 prosperity and independence.

32 ARTICLE V.

33 The Republic of Colombia authorizes the United States to con-
34 struct and maintain at each entrance and terminus of the proposed
35 canal a port for vessels using the same, with suitable light houses
36 and other aids to navigation, and the United States is authorized to
37 use and occupy within the limits of the zone fixed by this conven-

1 tion, such parts of the coast line and of the lands and islands
2 adjacent thereto as are necessary for this purpose, including the
3 construction and maintenance of breakwaters, dikes, jetties,
4 embankments, coaling stations, docks and other appropriate
5 works, and the United States undertakes the construction and
6 maintenance of such works and will bear all the expense thereof.
7 The ports when established are declared free, and their demar-
8 cations shall be clearly and definitely defined.

9 To give effect to this Article, the United States will give
10 special attention and care to the maintenance of works for drain-
11 age, sanitary and healthful purposes along the line of the canal,
12 and its dependencies, in order to prevent the invasion of epi-
13 demics or of securing their prompt suppression should they
14 appear. With this end in view the United States will organize
15 hospitals along the line of the canal, and will suitably supply or
16 cause to be supplied the towns of Panama and Colon with the
17 necessary aqueducts and drainage works, in order to prevent
18 their becoming centers of infection on account of their proximity
19 to the canal.

20 The Government of Colombia will secure for the United States
21 or its nominees the lands and rights that may be required in the
22 towns of Panama and Colon to effect the improvements above
23 referred to, and the Government of the United States or its nom-
24 inees shall be authorized to impose and collect equitable water
25 rates, during fifty years for the service rendered; but on the expi-
26 ration of said term the use of the water shall be free for the
27 inhabitants of Panama and Colon, except to the extent that may
28 be necessary for the operation and maintenance of said water sys-
29 tem, including reservoirs, aqueducts, hydrants, supply service,
30 drainage and other works.

31 ARTICLE VI.

32 The Republic of Colombia agrees that it will not cede or lease
33 to any foreign Government any of its islands or harbors within
34 or adjacent to the Bay of Panama, nor on the Atlantic Coast of
35 Colombia, between the Atrato River and the western boundary
36 of the Department of Panama, for the purpose of establishing
37 fortifications, naval or coaling stations, military posts, docks or

1 other works that might interfere with the construction, mainte-
2 nance, operation, protection, safety, and free use of the canal and
3 auxiliary works. In order to enable Colombia to comply with
4 this stipulation, the Government of the United States agrees to
5 give Colombia the material support that may be required in order
6 to prevent the occupation of said islands and ports, guaranteeing
7 there the sovereignty, independence and integrity of Colombia.

8

ARTICLE VII.

9 The Republic of Colombia includes in the foregoing grant the
10 right without obstacle, cost, or impediment, to such control, con-
11 sumption and general utilization in any manner found necessary by
12 the United States to the exercise by it of the grants to, and rights
13 conferred upon it by this Treaty, the waters of the Chagres River
14 and other streams, lakes and lagoons, of all non-navigable waters,
15 natural and artificial, and also to navigate all rivers, streams, lakes
16 and other navigable water-ways, within the jurisdiction and under
17 the dominion of the Republic of Colombia, in the Department
18 of Panama, within or without said zone, as may be necessary or
19 desirable for the construction, maintenance and operation of the
20 canal and its auxiliary canals and other works, and without tolls or
21 charges of any kind; and to raise and lower the levels of the
22 waters, and to deflect them, and to impound any such waters and
23 to overflow any lands necessary for the due exercise of such grants
24 and rights to the United States; and to rectify, construct and
25 improve the navigation of any such rivers, streams, lakes and
26 lagoons at the sole cost of the United States; but any such water-
27 ways so made by the United States may be used by citizens of
28 Colombia free of tolls or other charges. And the United States
29 shall have the right to use without cost, any water, stone, clay,
30 earth or other minerals belonging to Colombia on the public
31 domain that may be needed by it.

32 All damages caused to private land owners by inundation or by
33 the deviation of water courses, or in other ways, arising out of
34 the construction or operation of the canal, shall in each case be
35 appraised and settled by a joint commission appointed by the
36 Governments of the United States and Colombia, but the cost of
37 the indemnities so agreed upon shall be borne solely by the
38 United States.

ARTICLE VIII.

The Government of Colombia declares free for all time the ports at either entrance of the Canal, including Panama and Colon and the waters thereof in such manner that there shall not be collected by the Government of Colombia custom house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, nor any other charges or taxes of any kind shall be levied or imposed by the Government of Colombia upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance and operation of the main work or its auxiliaries, or upon the cargo, officers, crew, or passengers of any such vessels; it being the intent of this convention that all vessels and their cargoes, crews, and passengers, shall be permitted to use and pass through the Canal and the ports leading thereto, subject to no other demands or impositions than such tolls and charges as may be imposed by the United States for the use of the Canal and other works. It being understood that such tolls and charges shall be governed by the provisions of Article XVI.

The ports leading to the Canal, including Panama and Colon, also shall be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise destined to be introduced for the consumption of the rest of the Republic of Colombia, or the Department of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

Though the said ports shall be free and open to all, the Government of Colombia may establish in them such custom houses and guards as Colombia may deem necessary to collect duties on importations destined to other portions of Colombia and to prevent contraband trade. The United States shall have the right to make use of the ports at the two extremities of the Canal including Panama and Colon as places of anchorage, in order to make repairs for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and other works.

Any concessions or privileges granted by Colombia for the operation of light houses at Colon and Panama shall be subject to

1 expropriation, indemnification and payment in the same manner
2 as is provided by Article XIV in respect to the property therein
3 mentioned; but Colombia shall make no additional grant of any
4 such privilege nor change the status of any existing concession.

5 ARTICLE IX.

6 There shall not be imposed any taxes, national, municipal,
7 departmental, or of any other class, upon the canal, the vessels
8 that may use it, tugs and other vessels employed in the service of
9 the canal, the railways and auxiliary works, store houses, work
10 shops, offices, quarters for laborers, factories of all kinds, ware-
11 houses, wharves, machinery and other works, property, and effects
12 appertaining to the canal or railroad or that may be necessary for
13 the service of the canal or railroad and their dependencies,
14 whether situated within the cities of Panama and Colon, or any
15 other place authorized by the provisions of this convention.

16 Nor shall there be imposed contributions or charges of a per-
17 sonal character of whatever species upon officers, employees,
18 laborers, and other individuals in the service of the canal and its
19 dependencies.

20 ARTICLE X.

21 It is agreed that telegraph and telephone lines, when established
22 for canal purposes, may also, under suitable regulations, be used
23 for public and private business in connection with the systems of
24 Colombia and the other American Republics and with the lines
25 of cable companies authorized to enter the ports and territories
26 of these Republics; but the official dispatches of the Government
27 of Colombia and the authorities of the Department of Panama
28 shall not pay for such service higher tolls than those required
29 from the officials in the service of the United States.

30 ARTICLE XI.

31 The Government of Colombia shall permit the immigration and
32 free access to the lands and workshops of the canal and its depend-
33 encies of all employees and workmen of whatever nationality
34 under contract to work upon or seeking employment or in any
35 wise connected with the said canal and its dependencies, with their
36 respective families, and all such persons shall be free and exempt
37 from the military service of the Republic of Colombia.

ARTICLE XII.

The United States may import at any time into the said zone, free of customs duties, imposts, taxes, or other charges, and without any restriction, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance and operation of the canal and auxiliary works, also all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use without the zone excepting Panama and Colon and within the territory of the Republic, they shall be subject to the same import or other duties as like articles under the laws of Colombia or the ordinances of the Department of Panama.

ARTICLE XIII.

The United States shall have authority to protect and make secure the canal, as well as railways and other auxiliary works and dependencies, and to preserve order and discipline among the laborers and other persons who may congregate in that region and to make and enforce such police and sanitary regulations as it may deem necessary to preserve order and public health thereon, and to protect navigation and commerce through and over said canal, railways and other works and dependencies from interruption or damage.

I. The Republic of Colombia may establish judicial tribunals within said zone, for the determination, according to its laws and judicial procedure, of certain controversies hereinafter mentioned.

Such judicial tribunal or tribunals so established by the Republic of Colombia shall have exclusive jurisdiction in said zone of all controversies between citizens of the Republic of Colombia, or between citizens of the Republic of Colombia and citizens of any foreign nation other than the United States.

II. Subject to the general sovereignty of Colombia over said zone, the United States may establish judicial tribunals thereon, which shall have jurisdiction of certain controversies hereinafter mentioned to be determined according to the laws and judicial procedure of the United States.

1 Such judicial tribunal or tribunals so established by the United
2 States shall have exclusive jurisdiction in said zone of all contro-
3 versies between citizens of the United States, and between citizens
4 of the United States and citizens of any foreign nation other than
5 the Republic of Colombia; and of all controversies in any wise
6 growing out of or relating to the construction, maintenance or
7 operation of the canal, railway and other properties and works.

8 III. The United States and Colombia engage jointly to establish
9 and maintain upon said zone, judicial tribunals having civil, crimi-
10 nal and admiralty jurisdiction and to be composed of jurists
11 appointed by the Governments of the United States and Colombia
12 in a manner hereafter to be agreed upon between said Govern-
13 ments, and which tribunals shall have jurisdiction of certain con-
14 troversies hereinafter mentioned, and of all crimes, felonies and
15 misdemeanors committed within said zone, and of all cases arising
16 in admiralty, according to such laws and procedure as shall be
17 hereafter agreed upon and declared by the two governments.

18 Such joint judicial tribunal shall have exclusive jurisdiction in
19 said zone of all controversies between citizens of the United States
20 and citizens of Colombia, and between citizens of nations other
21 than Colombia or the United States; and also of all crimes, felo-
22 nies and misdemeanors committed within said zone, and of all
23 questions of admiralty arising therein.

24 IV. The two Governments hereafter, and from time to time
25 as occasion arises, shall agree upon and establish the laws and
26 procedures which shall govern such joint judicial tribunal and
27 which shall be applicable to the persons and cases over which
28 such tribunal shall have jurisdiction, and also shall likewise
29 create the requisite officers and employees of such court and
30 establish their powers and duties; and further shall make
31 adequate provision by like agreement for the pursuit, capture,
32 imprisonment, detention and delivery within said zone of per-
33 sons charged with the commitment of crimes, felonies or mis-
34 demeanors without said zone; and for the pursuit, capture,
35 imprisonment, detention and delivery without said zone of
36 persons charged with the commitment of crimes, felonies and
37 misdemeanors within said zone.

ARTICLE XIV.

The works of the canal, the railways and their auxiliaries are declared of public utility, and in consequence all areas of land and water necessary for the construction, maintenance, and operation of the canal and the other specified works may be expropriated in conformity with the laws of Colombia, except that the indemnity shall be conclusively determined without appeal, by a joint commission appointed by the Governments of Colombia and the United States.

The indemnities awarded by the Commission for such expropriation shall be borne by the United States, but the appraisal of said lands and the assessment of damages shall be based upon their value before the commencement of the work upon the canal.

ARTICLE XV.

The Republic of Colombia grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise, and for all vessels in distress having the right to pass through the canal and wishing to anchor in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of Colombia.

ARTICLE XVI.

The canal, when constructed, and the entrance thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XVII.

The Government of Colombia shall have the right to transport over the canal its vessels, troops, and munitions of war at all times without paying charges of any kind. This exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Colombia or of the Department of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

1

ARTICLE XVIII.

2 The United States shall have full power and authority to
3 establish and enforce regulations for the use of the canal, rail-
4 ways, and the entering ports and auxiliary works, and to fix
5 rates of tolls and charges thereof, subject to the limitations
6 stated in Article XVI.

7

ARTICLE XIX.

8 The rights and privileges granted to the United States by this
9 convention shall not affect the sovereignty of the Republic of
10 Colombia over the real estate that may be acquired by the United
11 States by reason of the transfer of the rights of the New Panama
12 Canal Company and the Panama Railroad Company lying outside
13 of the said canal zone.

14

ARTICLE XX.

15 If by virtue of any existing treaty between the Republic of
16 Colombia and any third power, there may be any privilege or
17 concession relative to an interoceanic means of communication
18 which especially favors such third power, and which in any of its
19 terms may be incompatible with the terms of the present conven-
20 tion, the Republic of Colombia agrees to cancel or modify such
21 treaty in due form, for which purpose it shall give to the said
22 third power the requisite notification within the term of four
23 months from the date of the present convention, and in case the
24 existing treaty contains no clause permitting its modification
25 or annulment, the Republic of Colombia agrees to procure its
26 modification or annulment in such form that there shall not exist
27 any conflict with the stipulations of the present convention.

28

ARTICLE XXI.

29 The rights and privileges granted by the Republic of Colombia
30 to the United States in the preceding Articles are understood to
31 be free of all anterior concessions or privileges to other Govern-
32 ments, corporations, syndicates or individuals, and consequently,
33 if there should arise any claims on account of the present con-
34 cessions and privileges or otherwise, the claimants shall resort to
35 the Government of Colombia and not to the United States for
36 any indemnity or compromise which may be required.

ARTICLE XXII.

1
2 The Republic of Colombia renounces and grants to the United
3 States the participation to which it might be entitled in the future
4 earnings of the canal under Article XV of the concessionary con-
5 tract with Lucien N. B. Wyse now owned by the New Panama
6 Canal Company and any and all other rights or claims of a pecun-
7 iary nature arising under or relating to said concession, or aris-
8 ing under or relating to the concessions to the Panama Railroad
9 Company or any extension or modification thereof; and it like-
10 wise renounces, confirms and grants to the United States, now and
11 hereafter, all the rights and property reserved in the said conces-
12 sions which otherwise would belong to Colombia at or before the
13 expiration of the terms of ninety-nine years of the concessions
14 granted to or held by the above mentioned party and companies,
15 and all right, title and interest which it now has or may hereafter
16 have, in and to the lands, canal, works, property and rights held
17 by the said companies under said concessions or otherwise, and
18 acquired or to be acquired by the United States from or through
19 the New Panama Canal Company, including any property and
20 rights which might or may in the future either by lapse of time,
21 forfeiture or otherwise, revert to the Republic of Colombia under
22 any contracts of concessions, with said Wyse, the Universal
23 Panama Canal Company, the Panama Railroad Company and the
24 New Panama Canal Company.

25 The aforesaid rights and property shall be and are free and
26 released from any present or reversionary interest in or claims
27 of Colombia and the title of the United States thereto upon con-
28 summation of the contemplated purchase by the United States
29 from the New Panama Canal Company, shall be absolute, so far
30 as concerns the Republic of Colombia, excepting always the
31 rights of Colombia specifically secured under this treaty.

ARTICLE XXIII.

32
33 If it should become necessary at any time to employ armed
34 forces for the safety or protection of the canal, or of the ships
35 that make use of the same, or the railways and other works, the
36 Republic of Colombia agrees to provide the forces necessary for
37 such purpose, according to the circumstances of the case, but if

1 the Government of Colombia cannot effectively comply with this
2 obligation, then, with the consent of or at the request of Colom-
3 bia, or of her Minister at Washington, or of the local authorities,
4 civil or military, the United States shall employ such force as may
5 be necessary for that sole purpose; and as soon as the necessity
6 shall have ceased will withdraw the forces so employed. Under
7 exceptional circumstances, however, on account of unforeseen or
8 imminent danger to said canal, railways and other works, or to
9 the lives and property of the persons employed upon the canal,
10 railways, and other works, the Government of the United States
11 is authorized to act in the interest of their protection, without the
12 necessity of obtaining the consent beforehand of the Government
13 of Colombia; and it shall give immediate advice of the measures
14 adopted for the purpose stated; and as soon as sufficient Colom-
15 bian forces shall arrive to attend to the indicated purpose, those
16 of the United States shall retire.

17 ARTICLE XXIV.

18 The Government of the United States agrees to complete the
19 construction of the preliminary works necessary, together with
20 all the auxiliary works, in the shortest time possible; and within
21 two years from the date of the exchange of ratification of this con-
22 vention the main works of the canal proper shall be commenced,
23 and it shall be opened to the traffic between the two oceans within
24 twelve years after such period of two years. In case, however,
25 that any difficulties or obstacles should arise in the construction
26 of the canal which are at present impossible to foresee, in con-
27 sideration of the good faith with which the Government of the
28 United States shall have proceeded, and the large amount of
29 money expended so far on the works and the nature of the diffi-
30 culties which may have arisen, the Government of Colombia will
31 prolong the terms stipulated in this Article up to twelve years
32 more for the completion of the work of the canal.

33 But in case the United States should, at any time, determine
34 to make such canal practically a sea level canal, then such period
35 shall be extended for ten years further.

ARTICLE XXV.

As the price or compensation for the right to use the zone granted in this convention by Colombia to the United States for the construction of a canal, together with the proprietary right over the Panama Railroad, and for the annuity of two hundred and fifty thousand dollars gold, which Colombia ceases to receive from the said railroad, as well as in compensation for other rights, privileges and exemptions granted to the United States, and in consideration of the increase in the administrative expenses of the Department of Panama consequent upon the construction of the said canal, the Government of the United States binds itself to pay Colombia the sum of ten million dollars in gold coin of the United States on the exchange of the ratification of this convention after its approval according to the laws of the respective countries, and also an annual payment during the life of this convention of two hundred and fifty thousand dollars in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to Colombia under this convention.

But no delay nor difference of opinion under this Article shall affect nor interrupt the full operation and effect of this convention in all other respects:

ARTICLE XXVI.

No change either in the Government or in the laws and treaties of Colombia, shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries (that now exist or may hereafter exist) touching the subject-matter of this convention.

If Colombia shall hereafter enter as a constituent into any other Government or into any union or confederation of States so as to merge her sovereignty or independence in such Government, union, or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

1

ARTICLE XXVII.

2 The joint commission referred to in Articles III, VII and XIV
3 shall be established as follows:

4 The President of the United States shall nominate two persons
5 and the President of Colombia shall nominate two persons and
6 they shall proceed to a decision; but in case of disagreement of
7 the Commission (by reason of their being equally divided in con-
8 clusion) an umpire shall be appointed by the two Governments,
9 who shall render the decision. In the event of death, absence or
10 incapacity of any Commissioner or umpire, or of his omitting,
11 declining or ceasing to act, his place shall be filled by the appoint-
12 ment of another person in the manner above indicated. All
13 decisions by a majority of the Commission or by the umpire shall
14 be final.

15

ARTICLE XXVIII.

16 This convention when signed by the contracting parties, shall
17 be ratified according to the laws of the respective countries and
18 shall be exchanged at Washington within a term of eight months
19 from this date, or earlier if possible.

20 In faith whereof, the respective plenipotentiaries have signed
21 the present convention in duplicate and have hereunto affixed
22 their respective seals.

Done at the City of Washington, the 22d day of January in the
year of our Lord nineteen hundred and three.

(Signed)

JOHN HAY. [SEAL.]

(Signed)

TOMÁS HERRÁN. [SEAL.]

TREATY WITH PANAMA—HAY-BUNA-VARILLA.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF PANAMA FOR THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS, SIGNED NOVEMBER 18, 1903.

DECEMBER 8, 1903.—Read; convention read the first time and referred to the Committee on Foreign Relations and, together with the message, ordered to be printed in confidence for the use of the Senate.

DECEMBER 16, 1903.—Injunction of secrecy removed, and ordered to be printed.

FEBRUARY 23, 1904.—Senate advises and consents to ratification.

To the Senate:

I transmit for the advice and consent of the Senate to its ratification a convention between the United States of America and the Republic of Panama for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific oceans, signed on November 18, 1903.

I also inclose a report from the Secretary of State submitting the convention for my consideration.

THEODORE ROOSEVELT.

WHITE HOUSE, *December 7, 1903.*

The PRESIDENT:

The undersigned Secretary of State has the honor to lay before the President for his consideration, and, if his judgment approve thereof, for submission to the Senate, with a view to receiving the advice and consent of that body to its ratification, a convention between the United States of America and the Republic of Panama for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific oceans, signed by the respective plenipotentiaries of the two countries on November 18, 1903.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, November 19, 1903.

1

ISTHMIAN CANAL CONVENTION.

2 The United States of America and the Republic of Panama
3 being desirous to insure the construction of a ship canal across
4 the Isthmus of Panama to connect the Atlantic and Pacific oceans,
5 and the Congress of the United States of America having passed
6 an act approved June 28, 1902, in furtherance of that object, by
7 which the President of the United States is authorized to acquire
8 within a reasonable time the control of the necessary territory of
9 the Republic of Colombia, and the sovereignty of such territory
10 being actually vested in the Republic of Panama, the high con-
11 tracting parties have resolved for that purpose to conclude a
12 convention and have accordingly appointed as their plenipo-
13 tentiaries,—

14 The President of the United States of America, John Hay,
15 Secretary of State, and

16 The Government of the Republic of Panama, Philippe Bunau-
17 Varilla, Envoy Extraordinary and Minister Plenipotentiary of
18 the Republic of Panama, thereunto specially empowered by said
19 government, who after communicating with each other their
20 respective full powers, found to be in good and due form, have
21 agreed upon and concluded the following articles:

22

ARTICLE I.

23 The United States guarantees and will maintain the independ-
24 ence of the Republic of Panama.

25

ARTICLE II.

26 The Republic of Panama grants to the United States in perpe-
27 tuity the use, occupation and control of a zone of land and land
28 under water for the construction, maintenance, operation, sanita-
29 tion and protection of said Canal of the width of ten miles extend-
30 ing to the distance of five miles on each side of the center line of the
31 route of the Canal to be constructed; the said zone beginning in
32 the Caribbean Sea three marine miles from mean low water mark
33 and extending to and across the Isthmus of Panama into the Pacific
34 ocean to a distance of three marine miles from mean low water
35 mark with the proviso that the cities of Panama and Colon and the
36 harbors adjacent to said cities, which are included within the
37 boundaries of the zone above described, shall not be included.

1 within this grant. The Republic of Panama further grants to
2 the United States in perpetuity the use, occupation and control
3 of any other lands and waters outside of the zone above described
4 which may be necessary and convenient for the construction,
5 maintenance, operation, sanitation and protection of the said
6 Canal or of any auxiliary canals or other works necessary and
7 convenient for the construction, maintenance, operation, sani-
8 tation and protection of the said enterprise.

9 The Republic of Panama further grants in like manner to the
10 United States in perpetuity all islands within the limits of the
11 zone above described and in addition thereto the group of small
12 islands in the Bay of Panama, named Perico, Naos, Culebra and
13 Flamenco.

14 ARTICLE III.

15 The Republic of Panama grants to the United States all the
16 rights, power and authority within the zone mentioned and
17 described in Article II of this agreement and within the limits of
18 all auxiliary lands and waters mentioned and described in said
19 Article II which the United States would possess and exercise if
20 it were the sovereign of the territory within which said lands and
21 waters are located to the entire exclusion of the exercise by
22 the Republic of Panama of any such sovereign rights, power or
23 authority.

24 ARTICLE IV.

25 As rights subsidiary to the above grants the Republic of
26 Panama grants in perpetuity to the United States the right to
27 use the rivers, streams, lakes and other bodies of water within
28 its limits for navigation, the supply of water or water-power or
29 other purposes, so far as the use of said rivers, streams, lakes
30 and bodies of water and the waters thereof may be necessary and
31 convenient for the construction, maintenance, operation, sanita-
32 tion and protection of the said Canal.

33 ARTICLE V.

34 The Republic of Panama grants to the United States in per-
35 petuity a monopoly for the construction, maintenance and opera-

1 tion of any system of communication by means of canal or railroad
2 across its territory between the Caribbean Sea and the Pacific
3 ocean.

4 ARTICLE VI.

5 The grants herein contained shall in no manner invalidate the
6 titles or rights of private land holders or owners of private
7 property in the said zone or in or to any of the lands or waters
8 granted to the United States by the provisions of any Article of
9 this treaty, nor shall they interfere with the rights of way over the
10 public roads passing through the said zone or over any of the said
11 lands or waters unless said rights of way or private rights shall
12 conflict with rights herein granted to the United States in which
13 case the rights of the United States shall be superior. All
14 damages caused to the owners of private lands or private property
15 of any kind by reason of the grants contained in this treaty or by
16 reason of the operations of the United States, its agents or
17 employees, or by reason of the construction, maintenance,
18 operation, sanitation and protection of the said Canal or of the
19 works of sanitation and protection herein provided for, shall be
20 appraised and settled by a joint Commission appointed by the
21 Governments of the United States and of the Republic of Panama,
22 whose decisions as to such damages shall be final and whose
23 awards as to such damages shall be paid solely by the United
24 States. No part of the work on said Canal or the Panama railroad
25 or on any auxiliary works relating thereto and authorized by the
26 terms of this treaty shall be prevented, delayed or impeded by or
27 pending such proceedings to ascertain such damages. The
28 appraisal of said private lands and private property and the
29 assessment of damages to them shall be based upon their value
30 before the date of this convention.

31 ARTICLE VII.

32 The Republic of Panama grants to the United States within the
33 limits of the cities of Panama and Colon and their adjacent har-
34 bors and within the territory adjacent thereto the right to acquire
35 by purchase or by the exercise of the right of eminent domain,
36 any lands, buildings, water rights or other properties necessary
37 and convenient for the construction, maintenance, operation and

1 protection of the Canal and of any works of sanitation, such as
2 the collection and disposition of sewage and the distribution of
3 water in the said cities of Panama and Colon, which, in the dis-
4 cretion of the United States may be necessary and convenient for
5 the construction, maintenance, operation, sanitation and protec-
6 tion of the said Canal and railroad. All such works of sanitation,
7 collection and disposition of sewage and distribution of water in
8 the cities of Panama and Colon shall be made at the expense of
9 the United States, and the Government of the United States, its
10 agents or nominees shall be authorized to impose and collect water
11 rates and sewerage rates which shall be sufficient to provide for
12 the payment of interest and the amortization of the principal of
13 the cost of said works within a period of fifty years and upon the
14 expiration of said term of fifty years the system of sewers and
15 water works shall revert to and become the properties of the
16 cities of Panama and Colon respectively, and the use of the water
17 shall be free to the inhabitants of Panama and Colon, except to
18 the extent that water rates may be necessary for the operation
19 and maintenance of said system of sewers and waters.

20 The Republic of Panama agrees that the cities of Panama and
21 Colon shall comply in perpetuity with the sanitary ordinances
22 whether of a preventive or curative character prescribed by the
23 United States and in case the Government of Panama is unable
24 or fails in its duty to enforce this compliance by the cities of
25 Panama and Colon with the sanitary ordinances of the United
26 States the Republic of Panama grants to the United States the
27 right and authority to enforce the same.

28 The same right and authority are granted to the United States
29 for the maintenance of public order in the cities of Panama and
30 Colon and the territories and harbors adjacent thereto in case the
31 Republic of Panama should not be, in the judgment of the
32 United States, able to maintain such order.

33 ARTICLE VIII.

34 The Republic of Panama grants to the United States all rights
35 which it now has or hereafter may acquire to the property of the
36 New Panama Canal Company and the Panama Railroad Company
37 as a result of the transfer of sovereignty from the Republic of

1 Colombia to the Republic of Panama over the Isthmus of Panama
2 and authorizes the New Panama Canal Company to sell and
3 transfer to the United States its rights, privileges, properties and
4 concessions as well as the Panama Railroad and all the shares or
5 part of the shares of that company; but the public lands situated
6 outside of the zone described in Article II of this treaty now
7 included in the concessions to both said enterprises and not
8 required in the construction or operation of the Canal shall revert
9 to the Republic of Panama except any property now owned by or
10 in the possession of said companies within Panama or Colon or
11 the ports or terminals thereof.

12 ARTICLE IX.

13 The United States agrees that the ports at either entrance of
14 the Canal and the waters thereof and the Republic of Panama
15 agrees that the towns of Panama and Colon shall be free for all
16 time so that there shall not be imposed or collected custom house
17 tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine
18 dues or any other charges or taxes of any kind upon any vessel
19 using or passing through the Canal or belonging to or employed
20 by the United States, directly or indirectly, in connection with the
21 construction, maintenance, operation, sanitation and protection
22 of the main Canal, or auxiliary works, or upon the cargo, officers,
23 crew, or passengers of any such vessels, except such tolls and
24 charges as may be imposed by the United States for the use of the
25 Canal and other works, and except tolls and charges imposed by
26 the Republic of Panama upon merchandise destined to be intro-
27 duced for the consumption of the rest of the Republic of Panama,
28 and upon vessels touching at the ports of Colon and Panama and
29 which do not cross the Canal.

30 The Government of the Republic of Panama shall have the right
31 to establish in such ports and in the towns of Panama and Colon
32 such houses and guards as it may deem necessary to collect duties
33 on importations destined to other portions of Panama and to pre-
34 vent contraband trade. The United States shall have the right to
35 make use of the towns and harbors of Panama and Colon as places
36 of anchorage, and for making repairs, for loading, unloading,
37 depositing, or transshipping cargoes either in transit or destined

1 for the service of the Canal and for other works pertaining to the
2 Canal.

3 ARTICLE X.

4 The Republic of Panama agrees that there shall not be imposed
5 any taxes, national, municipal, departmental, or of any other class
6 upon the Canal, the railways and auxiliary works, tugs and other
7 vessels employed in the service of the Canal, store houses, work
8 shops, offices, quarters for laborers, factories of all kinds, ware-
9 houses, wharves, machinery and other works, property, and effects
10 appertaining to the Canal or railroad and auxiliary works, or
11 their officers or employees, situated within the cities of Panama
12 and Colon, and that there shall not be imposed contributions or
13 charges of a personal character of any kind upon officers,
14 employees, laborers, and other individuals in the service of the
15 Canal and railroad and auxiliary works.

16 ARTICLE XI.

17 The United States agrees that the official dispatches of the Gov-
18 ernment of the Republic of Panama shall be transmitted over any
19 telegraph and telephone lines established for canal purposes and
20 used for public and private business at rates not higher than those
21 required from officials in the service of the United States.

22 ARTICLE XII.

23 The Government of the Republic of Panama shall permit the
24 immigration and free access to the lands and workshops of the
25 Canal and its auxiliary works of all employees and workmen of
26 whatever nationality under contract to work upon or seeking
27 employment upon or in any wise connected with the said Canal
28 and its auxiliary works, with their respective families and all
29 such persons shall be free and exempt from the military service
30 of the Republic of Panama.

31 ARTICLE XIII.

32 The United States may import at any time into the said zone
33 and auxiliary lands, free of custom duties, imposts, taxes, or other
34 charges, and without any restrictions, any and all vessels, dredges,
35 engines, cars, machinery, tools, explosives, materials, supplies,

1 and other articles necessary and convenient in the construction,
2 maintenance, operation, sanitation and protection of the Canal
3 and auxiliary works, and all provisions, medicines, clothing, sup-
4 plies and other things necessary and convenient for the officers,
5 employees, workmen and laborers in the service and employ of
6 the United States and for their families. If any such articles are
7 disposed of for use outside of the zone and auxiliary lands granted
8 to the United States and within the territory of the Republic;
9 they shall be subject to the same import or other duties as like
10 articles imported under the laws of the Republic of Panama.

11 ARTICLE XIV.

12 As the price or compensation for the rights, powers and privi-
13 leges granted in this convention by the Republic of Panama to the
14 United States, the Government of the United States agrees to pay
15 to the Republic of Panama the sum of ten million dollars
16 (\$10,000,000) in gold coin of the United States on the exchange of
17 the ratification of this convention and also an annual payment
18 during the life of this convention of two hundred and fifty thou-
19 sand dollars (\$250,000) in like gold coin, beginning nine years
20 after the date aforesaid.

21 The provisions of this Article shall be in addition to all other
22 benefits assured to the Republic of Panama under this convention.

23 But no delay or difference of opinion under this Article or any
24 other provisions of this treaty shall affect or interrupt the full
25 operation and effect of this convention in all other respects.

26 ARTICLE XV.

27 The joint commission referred to in Article VI shall be estab-
28 lished as follows:

29 The President of the United States shall nominate two persons
30 and the President of the Republic of Panama shall nominate two
31 persons and they shall proceed to a decision; but in case of disa-
32 greement of the Commission (by reason of their being equally
33 divided in conclusion) an umpire shall be appointed by the two
34 Governments who shall render the decision. In the event of the
35 death, absence, or incapacity of a Commissioner or Umpire, or of
36 his omitting, declining or ceasing to act, his place shall be filled

1 by the appointment of another person in the manner above indi-
2 cated. All decisions by a majority of the Commission or by the
3 umpire shall be final.

4 ARTICLE XVI.

5 The two Governments shall make adequate provision by future
6 agreement for the pursuit, capture, imprisonment, detention and
7 delivery within said zone and auxiliary lands to the authorities of
8 the Republic of Panama of persons charged with the commitment
9 of crimes, felonies or misdemeanors without said zone and for
10 the pursuit, capture, imprisonment detention and delivery with-
11 out said zone to the authorities of the United States of persons
12 charged with the commitment of crimes, felonies, and misde-
13 meanors within said zone and auxiliary lands.

14 ARTICLE XVII.

15 The Republic of Panama grants to the United States the use of
16 all the ports of the Republic open to commerce as places of ref-
17 uge for any vessels employed in the Canal enterprise, and for all
18 vessels passing or bound to pass through the Canal which may be
19 in distress and be driven to seek refuge in said ports. Such ves-
20 sels shall be exempt from anchorage and tonnage dues on the part
21 of the Republic of Panama.

22 ARTICLE XVIII.

23 The Canal, when constructed, and the entrances thereto shall
24 be neutral in perpetuity, and shall be opened upon the terms pro-
25 vided for by Section I of Article three of, and in conformity with
26 all the stipulations of, the treaty entered into by the Governments
27 of the United States and Great Britain on November 18, 1901.

28 ARTICLE XIX.

29 The Government of the Republic of Panama shall have the
30 right to transport over the Canal its vessels and its troops and
31 munitions of war in such vessels at all times without paying
32 charges of any kind. The exemption is to be extended to the
33 auxiliary railway for the transportation of persons in the service
34 of the Republic of Panama, or of the police force charged with
35 the preservation of public order outside of said zone, as well as
36 to their baggage, munitions of war and supplies.

1 ARTICLE XX.

2 If by virtue of any existing treaty in relation to the territory
3 of the Isthmus of Panama, whereof the obligations shall descend
4 or be assumed by the Republic of Panama, there may be any
5 privilege or concession in favor of the Government or the citi-
6 zens and subjects of a third power relative to an interoceanic
7 means of communication which in any of its terms may be incom-
8 patible with the terms of the present convention, the Republic of
9 Panama agrees to cancel or modify such treaty in due form, for
10 which purpose it shall give to the said third power the requisite
11 notification within the term of four months from the date of the
12 present convention, and in case the existing treaty contains no
13 clause permitting its modifications or annulment, the Republic of
14 Panama agrees to procure its modifications or annulment in such
15 form that there shall not exist any conflict with the stipulations
16 of the present convention.

17 ARTICLE XXI.

18 The rights and privileges granted by the Republic of Panama
19 to the United States in the preceding Articles are understood to be
20 free of all anterior debts, liens, trusts, or liabilities, or conces-
21 sions or privileges to other Governments, corporations, syndi-
22 cates or individuals, and consequently, if there should arise any
23 claims on account of the present concessions and privileges or
24 otherwise, the claimants shall resort to the Government of the
25 Republic of Panama and not to the United States for any indem-
26 nity or compromise which may be required.

27 ARTICLE XXII.

28 The Republic of Panama renounces and grants to the United
29 States the participation to which it might be entitled in the future
30 earnings of the Canal under Article XV of the concessionary
31 contract with Lucien N. B. Wyse now owned by the New Panama
32 Canal Company and any and all other rights or claims of a
33 pecuniary nature arising under or relating to said concession, or
34 arising under or relating to the concessions to the Panama rail-
35 road Company or any extension or modification thereof; and it
36 likewise renounces, confirms and grants to the United States, now

1 and hereafter, all the rights and property reserved in the said
2 concessions which otherwise would belong to Panama at or before
3 the expiration of the terms of ninety-nine years of the conces-
4 sions granted to or held by the above mentioned party and com-
5 panies, and all right, title and interest which it now has or may
6 hereafter have, in and to the lands, canal, works, property and
7 rights held by the said companies under said concessions or other-
8 wise, and acquired or to be acquired by the United States from
9 or through the New Panama Canal Company, including any
10 property and rights which might or may in the future either by
11 lapse of time, forfeiture or otherwise, revert to the Republic of
12 Panama under any contracts or concessions, with said Wyse, the
13 Universal Panama Canal Company, the Panama Railroad Com-
14 pany and the New Panama Canal Company.

15 The aforesaid rights and property shall be and are free and
16 released from any present or reversionary interest in or claims of
17 Panama and the title of the United States thereto upon consum-
18 mation of the contemplated purchase by the United States from
19 the New Panama Canal Company, shall be absolute, so far as con-
20 cerns the Republic of Panama, excepting always the rights of the
21 Republic specifically secured under this treaty.

22 ARTICLE XXIII.

23 If it should become necessary at any time to employ armed
24 forces for the safety or protection of the Canal, or of the ships
25 that make use of the same, or the railways and auxiliary works,
26 the United States shall have the right, at all times and in its dis-
27 cretion, to use its police and its land and naval forces or to
28 establish fortifications for these purposes.

29 ARTICLE XXIV.

30 No change either in the Government or in the laws and treaties
31 of the Republic of Panama shall, without the consent of the
32 United States, affect any right of the United States under the
33 present convention, or under any treaty stipulation between the
34 two countries that now exists or may hereafter exist touching
35 the subject matter of this convention.

36 If the Republic of Panama shall hereafter enter as a constitu-
37 ent into any other Government or into any union or confederation

1 of states, so as to merge her sovereignty or independence in such
2 Government, union or confederation, the rights of the United
3 States under this convention shall not be in any respect lessened
4 or impaired.

5 ARTICLE XXV.

6 For the better performance of the engagements of this con-
7 vention and to the end of the efficient protection of the Canal and
8 the preservation of its neutrality, the Government of the Repub-
9 lic of Panama will sell or lease to the United States lands adequate
10 and necessary for naval or coaling stations on the Pacific coast
11 and on the western Caribbean coast of the Republic at certain
12 points to be agreed upon with the President of the United States.

13 ARTICLE XXVI.

14 This convention when signed by the Plenipotentiaries of the
15 Contracting Parties shall be ratified by the respective Govern-
16 ments and the ratifications shall be exchanged at Washington at
17 the earliest date possible.

18 In faith whereof the respective Plenipotentiaries have signed
19 the present convention in duplicate and have hereunto affixed
20 their respective seals.

21 Done at the City of Washington the 18th day of November, in
22 the year of our Lord nineteen hundred and three.

23 JOHN HAY [SEAL]

24 P. BUNAU-VARILLA [SEAL]

